IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3787 OF 2005

1. Chandrakant Dadu Gaikwad,
2. Vasant Subhana Gaikwad,
3. Hariba Subhana Gaikwad,
4. Keru Subhana Gaikwad,
5. Mahendra Keru Gaikwad,
6. Sachin Damodar Gaikwad,
7. Babu Nana Gaikwad,
8. Dattu Rau Gaikwad,
9. Santosh Dattu Gaikwad,
10. Pandit Ramchandra Gaikwad,
11. Pradip Ramchandra Gaikwad. .... Applicants.

Versus.

State of Maharashtra. ... Respondents.

Shri A.P.Mundargi i/by Shri D.N.Pathade for the Applicant.
Shri K.V.Saste, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 5th July, 2005.

P.C.:

1. The learned Counsel appearing for the parties were heard on last date. Today the Application is kept for dictation of order.

2. The Application is by some of the accused in a case registered in Shahuwadi Police Station, Dist. Kolhapur for offence punishable under sections 143, 147, 148, 149, 326, 302, 323, 324, and 504 of the Indian Penal Code. The F.I.R. is registered at the instance of the first informant Pramod Tukaram Gaikwad. The F.I.R. itself discloses that the offence in question was as a result of rivalry between the two groups. The

allegation of the Complainant is against the group of more than 14 persons. One Sanjay Shivram Gaikwad died as a result of injuries sustained by him in the assault. Five others also suffered injuries in the said incident.

3. The first informant has named accused Prakash Gaikwad. He was carrying an iron pipe in his hand. The first informant also named the accused Vasant Gaikwad who is Applicant No.2 herein. He was also carrying an iron pipe. In so far as attack on deceased Sanjay is concerned the specific allegation has been made against accused Nandkumar, Prakash, Suryakant, Vasant. There is no dispute between the parties that the Applicant No.2 who is named as Vasant Tukaram Gaikwad in the cause title of this Application is the same as Vasant Subhana Gaikwad. The witness Sunita Ananda Gaikwad has stated that apart from Nandkumar, Prakash, Mahendra, and Datta, Applicant No.2 Vasant participated in the assault on the deceased Sanjay. The allegation against rest of the Applicants is as regards assault on the other persons, viz. Shivram, Tukaram, Pramod, Dnyando, and Datta. So far as the injuries on Shivram are concerned, they are simple injuries. The injuries on the person of Tukaram are two C.L.Ws and one contusion, which are stated to be caused by hard and blunt object. The injuries on the person of Pramod, Dnyandeo, Datta are also simple injuries allegedly caused by hard and blunt object. Except against the Applicant No.2 Vasant, no allegation

has been made against other Applicants as regards the assault on the deceased Sanjay. As far as Applicant No.2 is concerned, there is enough material to show his complicity in the fatal attack on the deceased Sanjay.

4. After having heard the learned Counsel appearing for the parties, I find that except the Applicant No.2 Vasant, other Applicants are entitled be enlarged on bail. The charge sheet has been filed and there is no reason to continue custody of the Applicants, save and except Applicant No.2. No other criminal antecedents are alleged against the Applicant. However for ensuring protection to witnesses, stringent conditions will have to be imposed.

5. In the circumstances, the following order is passed:

(i) Applicant in so far as it relates to Applicant No.2 is dismissed.

(ii) The Applicants Nos.1, 3 to 11 shall be enlarged on bail in connection with C.R.No.3/2005 of Shahuwadi Police Station, Dist.Kolhapur subject to furnishing a personal bond of Rs.10,000/- each with one or two sureties in the like amount.

(iii) The Bail is granted subject to condition that the Applicant shall not enter the area falling within the jurisdiction of Shahuwadi Police Station, Dist. Kolhapur, till conclusion of trial.

(iv) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(v) The Applicants shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicants to delay the trial may be a ground for cancellation of bail. (vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vii) Application is disposed of in above terms.

(viii) The parties to act upon an authenticated copy of this order.

Judge.